

VIA FACSMILE (305) 375-1083

October 29, 2004

Yanette Bravo
Department of Procurement Management
111 N.W. First Street
13th Floor
Miami, FL 33128

RE: REQUEST FOR ADVISORY OPINION 04-192

Dear Ms. Bravo:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on October 28, 2004 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding your ability to respond to an Invitation to Bid for Infill Housing.

In your letter, you advised the Commission that the General Services Administration (GSA) recently issued an Invitation to Bid for county owned lots for infill housing. The Infill Housing program takes vacant and abandoned county-owned property and sells or transfers the property to community development corporations, non-profit corporations or qualified private developers. The County also provides additional construction financing and other assistance to infill housing developers. The lots are sold to the highest bidder.

You recently created a corporation that will specialize in real estate development and construction management. You would like to form a joint venture with a contractor to build and develop the infill housing property. As a contracting officer for the

Department of Procurement Management, you mainly handle matters for the Finance Department. You are rarely involved in projects for GSA or the Housing Department.

The Commission found the Conflict of Interest and Code of Ethics ordinance permits you to submit a response to the Invitation to Bid for Infill Property. Section 2-11.1 (c) permits employees to contract with the county to purchase county property unless the employee works for a department that is involved in the infill housing program. Section 2-11.1 (c) provides that " (n)otwithstanding any provision to the contrary herein, subsection (c) and (d) shall not be construed to prevent any employee...from entering into any contract, individually or through a firm, corporation, partnership or business entity in which the employee or any member of his or her immediate family has a controlling financial interest, with Miami-Dade County or any person or agency acting for Miami-Dade County as long as 1) entering into the contract would not interfere with the full and faithful discharge by the employee of his or her duties to the County, 2) the employee has not participated in determining the subject contract awards or awarding the contract , and 3) the employee's job responsibilities and job description will not require him or her to be involved with the contract in any way, including but not limited to its enforcement, oversight, administration, amendment, extension, termination or forbearance.

Accordingly, employees are permitted to bid on infill property unless the employee works for the following departments: GSA, Housing, Team Metro, DERM, Planning and Zoning, Building, Water and Sewer, OCED, Public Works and the Tax Collector's Office because the departments participate in an oversight committee for the infill housing program.

Since the Department of Procurement Management is not one of the departments involved in oversight of the Infill Housing Program, you may submit a bid for the Infill Housing lots.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call the undersigned at (305) 579-2594 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,

ROBERT MEYERS
Executive Director